



House of Representatives

General Assembly

File No. 22

February Session, 2000

Substitute House Bill No. 5130

House of Representatives, March 8, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Court Operations.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 51-81d of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (b) The Commissioner of Revenue Services, or the commissioner's
4 designee, shall collect any fee established pursuant to subsection (a) of
5 this section, record such payments with the State Comptroller and
6 deposit such payments promptly with the State Treasurer, who shall
7 credit such payments to the Client Security Fund. The Treasurer shall
8 maintain the Client Security Fund separate and apart from all other
9 moneys, funds and accounts and shall credit any interest earned from
10 the Client Security Fund to the fund. Any interest earned from the
11 fund during the period from its inception to the effective date of this
12 act shall be retroactively credited to the fund.

13 Sec. 2. Section 7-412 of the general statutes is repealed and the

14 following is substituted in lieu thereof:

15 All rules made as herein provided and all changes therein shall be
16 printed forthwith for distribution by such board, and the board shall
17 give public notice of the place or places where copies of such rules may
18 be obtained. In each such publication shall be specified the date, not
19 less than ten days subsequent to the date of such publication, when
20 such rules shall take effect. The rules affecting any test shall in no case
21 be changed after the publication of notice of such test. [Copies of all
22 such rules and of all changes therein, certified by the secretary of the
23 board, shall be filed with the clerk of the superior court for the
24 appropriate judicial district, within ten days after the adoption thereof,
25 and shall be filed, preserved and indexed by such clerk.]

26 Sec. 3. Subsection (f) of section 7-152b of the general statutes is
27 repealed and the following is substituted in lieu thereof:

28 (f) If such assessment is not paid on the date of its entry, the hearing
29 officer shall send by first class mail a notice of the assessment to the
30 person found liable and shall file, not less than thirty days nor more
31 than twelve months after such mailing, a certified copy of the notice of
32 assessment with the clerk of [the superior court for the geographical
33 area] a superior court facility designated by the Chief Court
34 Administrator within the boundaries of the judicial district in which
35 the town, city or borough is located together with an entry fee of eight
36 dollars. The certified copy of the notice of assessment shall constitute a
37 record of assessment. Within such twelve-month period, assessments
38 against the same person may be accrued and filed as one record of
39 assessment. The clerk shall enter judgment, in the amount of such
40 record of assessment and court costs of eight dollars, against such
41 person in favor of the town, city or borough. Notwithstanding any
42 other provision of the general statutes, the hearing officer's assessment,
43 when so entered as a judgment, shall have the effect of a civil money
44 judgment and a levy of execution on such judgment may issue without

45 further notice to such person.

46 Sec. 4. Subsection (f) of section 7-152c of the general statutes is
47 repealed and the following is substituted in lieu thereof:

48 (f) If such assessment is not paid on the date of its entry, the hearing
49 officer shall send by first class mail a notice of the assessment to the
50 person found liable and shall file, not less than thirty days nor more
51 than twelve months after such mailing, a certified copy of the notice of
52 assessment with the clerk of [the superior court for the geographical
53 area] a superior court facility designated by the Chief Court
54 Administrator within the boundaries of the judicial district in which
55 the municipality is located together with an entry fee of eight dollars.
56 The certified copy of the notice of assessment shall constitute a record
57 of assessment. Within such twelve-month period, assessments against
58 the same person may be accrued and filed as one record of assessment.
59 The clerk shall enter judgment, in the amount of such record of
60 assessment and court costs of eight dollars, against such person in
61 favor of the municipality. Notwithstanding any other provision of the
62 general statutes, the hearing officer's assessment, when so entered as a
63 judgment, shall have the effect of a civil money judgment and a levy of
64 execution on such judgment may issue without further notice to such
65 person.

66 Sec. 5. Subsection (c) of section 52-59b of the general statutes, as
67 amended by section 4 of public act 99-160, is repealed and the
68 following is substituted in lieu thereof:

69 (c) Any nonresident individual, foreign partnership or the executor
70 or administrator of such nonresident individual or foreign partnership,
71 over whom a court may exercise personal jurisdiction, as provided in
72 subsection (a), shall be deemed to have appointed the Secretary of the
73 State as its attorney and to have agreed that any process in any civil
74 action brought against the nonresident individual or foreign
75 partnership, or the executor or administrator of such nonresident

76 individual or foreign partnership, may be served upon the Secretary of
77 the State and shall have the same validity as if served upon the
78 nonresident individual or foreign partnership personally. The process
79 shall be served by the officer to whom the same is directed upon the
80 Secretary of the State by leaving with or at the office of the Secretary of
81 the State, at least twelve days before the return day of such process, a
82 true and attested copy thereof, and by sending to the defendant at the
83 defendant's last-known address, by registered or certified mail,
84 postage prepaid, return receipt requested, a like true and attested copy
85 with an endorsement thereon of the service upon the Secretary of the
86 State. The officer serving such process upon the Secretary of the State
87 shall leave with the Secretary of the State, at the time of service, a fee of
88 twenty-five dollars, which fee shall be taxed in favor of the plaintiff in
89 the plaintiff's costs if the plaintiff prevails in any such action. The
90 Secretary of the State shall keep a record of each such process and the
91 day and hour of service.

92 Sec. 6. Subsection (a) of section 52-549a of the general statutes is
93 repealed and the following is substituted in lieu thereof:

94 (a) In any small claims action, the parties may, by agreement,
95 submit such matter to a commissioner of the Superior Court chosen on
96 a rotating basis by the clerk of the court to which such small claim is
97 returned, from a list of such commissioners approved by the Chief
98 Court Administrator, in accordance with section 52-549d, and
99 submitted to the parties by the clerk in the [geographical] small claims
100 area in which such matter is filed. If the parties fail to agree on the first
101 commissioner so chosen, the clerk shall choose another upon whom
102 the parties may agree on such rotating basis.

103 Sec. 7. Subsection (a) of section 52-549d of the general statutes is
104 repealed and the following is substituted in lieu thereof:

105 (a) Any commissioner of the Superior Court, admitted to practice in
106 this state for at least two years, who is able and willing to hear small

107 claims, may submit his name to the clerk of the superior court for any
108 [geographical] small claims area in which the commissioner may have
109 a law office or in which he is convenient and available to the litigants
110 and counsel of the [geographical] small claims area. The name shall be
111 submitted to the Chief Court Administrator for approval to be placed
112 on a list of available commissioners in any [geographical] small claims
113 area for hearing of small claims. The approved name shall thereupon
114 be returned to the clerk who shall maintain a list of all approved
115 names.

116 Sec. 8. Subsection (g) of section 51-345 of the general statutes is
117 repealed and the following is substituted in lieu thereof:

118 (g) In small claims matters, civil process shall be made returnable to
119 a Superior Court facility designated by the Chief Court Administrator
120 to serve the small claims area within the boundaries of the judicial
121 district where the plaintiff resides, where the defendant resides or is
122 doing business or where the transaction or injury occurred. If the
123 plaintiff is either a domestic corporation, United States corporation, a
124 foreign corporation or a limited liability company, civil process shall
125 be made returnable to a Superior Court facility designated by the Chief
126 Court Administrator to serve the small claims area within the
127 boundaries of the judicial district where the defendant resides or is
128 doing business or where the transaction or injury occurred.

129 Sec. 9. Subsection (c) of section 52-605 of the general statutes is
130 repealed and the following is substituted in lieu thereof:

131 (c) Within thirty days after the filing of the judgment and the
132 certificate, the judgment creditor shall mail notice of filing of the
133 foreign judgment by registered or certified mail, return receipt
134 requested, to the judgment debtor at his last-known address. The
135 proceeds of an execution shall not be distributed to the judgment
136 creditor earlier than thirty days after filing of proof of service with the
137 clerk of the court in which enforcement of such judgment is sought.

138 Sec. 10. Section 52-606 of the general statutes is repealed and the
139 following is substituted in lieu thereof:

140 (a) If the judgment debtor shows the court that an appeal from the
141 foreign judgment is pending or will be taken, or that a stay of
142 execution has been granted, the court shall stay enforcement of the
143 foreign judgment until the appeal is concluded, the time for appeal
144 expires or the stay of execution expires or is vacated, upon proof that
145 the judgment debtor has furnished the security for the satisfaction of
146 the judgment required by the state in which it was rendered. The
147 judgment debtor shall provide notice of the stay of enforcement to the
148 judgment creditor (1) by registered or certified mail, postage prepaid,
149 return receipt requested, restricted delivery, or (2) by verified delivery
150 to the judgment creditor as the named addressee by private
151 messenger, delivery or courier service.

152 (b) If the judgment debtor shows the court any ground upon which
153 enforcement of a judgment of a court of this state would be stayed, the
154 court shall stay enforcement of the judgment for an appropriate
155 period, upon requiring the same security for satisfaction of the
156 judgment as is required in this state. The judgment debtor shall
157 provide notice of the stay of enforcement to the judgment creditor.

158 Sec. 11. Section 51-198 of the general statutes is repealed and the
159 following is substituted in lieu thereof:

160 (a) The Supreme Court shall consist of one Chief Justice and six
161 associate judges, who shall, at the time of their appointment, also be
162 appointed judges of the Superior Court.

163 (b) In addition thereto, each chief justice or associate judge of the
164 Supreme Court who elects to retain his office but to retire from full-
165 time active service shall continue to be a member of the Supreme Court
166 during the remainder of his term of office and during the term of any
167 reappointment under section 51-50i, until he attains the age of seventy

168 years. He shall be entitled to participate in the meetings of the judges
169 of the Supreme Court and to vote as a member thereof.

170 (c) The Chief Justice or an associate judge of the Supreme Court,
171 upon attaining the age of seventy, may, notwithstanding the expiration
172 of the designation and assignment as a Chief Justice or a judge of the
173 Supreme Court, decide or join in the decision and final disposition of
174 matters submitted to such Chief Justice or judge during the assignment
175 period of such Chief Justice or judge. Such Chief Justice or judge may
176 also, after attaining the age of seventy, decide or join in the
177 consideration and disposition of applications for rehearing or further
178 proceedings in the matters originally submitted to such Chief Justice or
179 judge.

180 Sec. 12. Section 46a-13k of the general statutes is repealed and the
181 following is substituted in lieu thereof:

182 (a) There is established an Office of the Child Advocate. The
183 Governor, with the approval of the General Assembly, shall appoint a
184 person with knowledge of the child welfare system and the legal
185 system to fill the Office of the Child Advocate. Such person shall be
186 qualified by training and experience to perform the duties of the office
187 as set forth in section 46a-13l. The appointment shall be made from a
188 list of at least three persons prepared and submitted by the advisory
189 committee established pursuant to section 46a-13q. Upon any vacancy
190 in the position of Child Advocate, the advisory committee shall meet
191 to consider and interview successor candidates and shall submit to the
192 Governor a list of no less than five and no more than seven of the most
193 outstanding candidates, on or before sixty days of said vacancy. Such
194 list shall rank the candidates in the order of committee preference.
195 Upon receipt of the list of candidates from the advisory committee, the
196 Governor shall designate a candidate for Child Advocate from among
197 the choices within eight weeks of receipt of such list. If at any time any
198 of the candidates withdraw from consideration prior to confirmation

199 by the General Assembly, the designation shall be made from the
200 remaining candidates on the list submitted to the Governor. If a
201 candidate has not been designated by the Governor within the eight-
202 week time period, the candidate ranked first shall receive the
203 designation and be referred to the General Assembly for confirmation.
204 If the General Assembly is not in session, the designated candidate
205 shall serve as acting Child Advocate, and be entitled to the
206 compensation, privileges and powers of the Child Advocate until the
207 General Assembly meets to take action on said appointment. The
208 person appointed Child Advocate shall serve for a term of four years
209 and may be reappointed or shall continue to hold office until his
210 successor is appointed and qualified. Upon any vacancy in the position
211 of Child Advocate, and until such time as a candidate has been
212 designated, the Associate Child Advocate shall serve as the acting
213 Child Advocate and be entitled to the compensation, privileges and
214 powers of the Child Advocate.

215 (b) The Office of the Child Advocate shall be in the Freedom of
216 Information Commission for administrative purposes only.

217 (c) Notwithstanding any other provision of the general statutes, the
218 Child Advocate shall act independently of any state department in the
219 performance of his duties.

220 (d) The Child Advocate may, within available funds, appoint such
221 staff as may be deemed necessary provided, for the fiscal years ending
222 June 30, 1996, and June 30, 1997, such staff shall not exceed one and
223 one-half full-time positions or the equivalent thereof. The duties of the
224 staff may include the duties and powers of the Child Advocate if
225 performed under the direction of the Child Advocate.

226 (e) The General Assembly shall annually appropriate such sums as
227 necessary for the payment of the salaries of the staff and for the
228 payment of office expenses and other actual expenses incurred by the
229 Child Advocate in the performance of [his] the duties of the Child

230 Advocate. Any legal or court fees obtained by the state in actions
231 brought by the Child Advocate shall be deposited in the General Fund.

232 (f) The Child Advocate shall annually submit to the Governor and
233 the General Assembly a detailed report analyzing the work of the
234 Office of the Child Advocate.

235 Sec. 13. This act shall take effect from its passage, except that
236 sections 4, 5, 7 and 8 shall take effect September 1, 2000, and sections 2,
237 3, 6, 9 and 10 shall take effect October 1, 2000.

JUD Committee Vote: Yea 37 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Unrestricted General Fund Revenue Loss,
Client Security Fund Revenue Gain

Affected Agencies: Judicial Department, State Treasurer, Office of
the Child Advocate

Municipal Impact: None

Explanation**State Impact:**

The bill would result in a one-time transfer in revenue of \$90,000 and an annual revenue transfer of \$10,000 - \$50,000 between the state General Fund and the Client Security Fund operated by the Judicial Department. The bill specifies that interest earned from the client security fund since its inception and any earned thereafter be deposited in this fund, rather than the General Fund. The \$90,000 is composed of total interest earnings for the Client Security Fund of \$110,000 less \$20,000, which will remain in the General Fund to pay the lock-box banking fee. The current balance in the Client Security Fund is \$1,872,361 as of 2/29/00.

Section three of the bill which states that municipal hearing officers must file unpaid parking violation and citation assessments in the Judicial District rather than Geographical Area courts is already occurring. Therefore, there is no fiscal impact.

The remainder of the bill makes technical and other changes that do not result in a fiscal impact.

OLR Bill Analysis

sHB 5130

AN ACT CONCERNING COURT OPERATIONS.**SUMMARY:**

This bill makes several unrelated changes to the laws relating to courts and court procedures.

Specifically, it:

1. requires the state treasurer to credit to the Client Security Fund any interest the fund earns and any it has earned since its inception;
2. allows the revenue services commissioner to designate another person or entity to collect and record payments and deposit them in the fund;
3. eliminates the requirement that municipal civil service rules be filed with, and preserved and indexed by court clerks;
4. changes the location where municipal hearing officers must file unpaid parking violation and citation assessments;
5. requires a return receipt for service of process by certified mail on nonresident individuals and out-of-state partnerships;
6. requires that notice of the registration of a federal or out-of-state judgment with a Connecticut court for enforcement that is mailed to the judgment debtor be by registered or certified mail, return receipt requested;
7. allows Supreme Court justices who reach age 70 to continue to work on cases submitted to them before they reached age 70 (see

COMMENT);

8. designates the associate child advocate as acting child advocate when there is a vacancy and gives the acting child advocate the same compensation, privileges, and powers the child advocate has; and
9. makes technical changes to the laws relating to where small claims cases must filed.

EFFECTIVE DATE: September 1, 2000 for the service of process provisions, two of the provisions dealing with small claims court and one provision dealing with parking violations; October 1, 2000 for the provisions dealing with civil service rules, foreign judgments, one provision dealing with small claims court and one provision dealing with parking violations; and upon passage for the provisions dealing with the Client Security Fund, Supreme Court justices and the child advocate.

CIVIL SERVICE RULES

The bill eliminates the requirement that municipal civil service boards file civil service rules with the Superior Court clerk within 10 days after they adopt them. It also eliminates the duty of court clerks to preserve and index these rules.

UNPAID PARKING ASSESSMENTS

The bill changes where municipal parking violation hearing officers must file certified copies of unpaid assessment notices and citations. It requires that they file them with the clerk of a Superior Court facility designated by the chief court administrator in the judicial district where the municipality is located instead of with the clerk of the court for the Geographical Area where the municipality is located.

FOREIGN JUDGMENTS

The bill imposes additional requirements on people asking Connecticut courts to enforce foreign judgments (judgments secured in some other state or in federal court). Specifically, it requires that the

notice they mail to the judgment debtor be by registered or certified mail, return receipt requested.

By law, a Connecticut court may not distribute the proceeds from the enforcement of a foreign judgment to the judgment creditor sooner than 30 days after proof that the notice has been mailed. The bill specifies that the proof be filed with the clerk of the court where enforcement of the judgment is sought.

The bill imposes notice requirements on judgment debtors of a foreign judgment when a Connecticut court stays enforcement. Specifically, the bill requires judgment debtors to provide notice of the stay to the judgment creditor either by registered or certified mail, postage prepaid, return receipt requested; restricted delivery; or by verified delivery to the judgment creditor by private messenger, delivery, or courier service.

SUPREME COURT JUSTICES

The bill allows Supreme Court justices, whose designation has expired because they reached age 70, to decide or join in decisions and final disposition of matters submitted to them before their 70th birthday. It also allows them to decide or join in the consideration and disposition of applications for rehearing or further proceedings in matters originally submitted to them.

BACKGROUND

Client Security Fund

The Client Security Fund reimburses clients for losses resulting from the dishonest conduct of attorneys in the course of the attorney-client relationship.

COMMENT

Supreme Court Justices

Article V, Section 6 of Connecticut's Constitution requires that judges retire at age 70. It permits Supreme Court justices to sit as state

referees and to exercise powers conferred on referees by statute. This bill does not confer Supreme Court powers on referees and other statutes do not specifically deal with this issue. Thus, these provisions dealing with Supreme Court justices are subject to constitutional challenge.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 0